



**Justice Center for the  
Protection of People  
with Special Needs**

# SHU Exclusion Monitoring Report

## 3rd Quarter 2019

February 2021

## Introduction

Executive Law §553, charged the New York State Justice Center for the Protection of People with Special Needs (Justice Center) with the responsibility to oversee compliance with the Special Housing Unit (SHU) Exclusion Law. This includes the responsibility to monitor and make recommendations regarding the quality of care provided to inmates with serious mental illness, including those who are in a residential mental health treatment unit or segregated confinement in facilities operated by the New York State Department of Corrections and Community Supervision (DOCCS).<sup>1</sup> In order to carry out this responsibility, the Justice Center visits the SHU units in prisons to review compliance and conducts systemic reviews of mental health programs in state-operated correctional facilities.

## Report: Third Quarter of 2019 (July-September)

The Justice Center initiated five SHU Compliance/Quality of Mental Health Care Reviews in the third quarter of 2019; completing 84 cell-side interviews, 19 private interviews, 80 compliance reviews, and 61 reviews of the quality of mental health care provided (QMHC).

<b>Quarterly Summary: Third Quarter of 2019 Correctional Facility Date of Visit</b>	<b>Inmates interviewed cell-side by Justice Center</b>	<b>Private Interviews Accepted</b>	<b>Inmates referred for immediate action</b>	<b>SHU Compliance Reviews Completed</b>	<b>Quality of Mental Health Reviews Completed</b>
Great Meadow BHU – 8/22-23/2019	33	9	5	33	20
Ulster CF – 8/23/2019	15	1	0	11	11
Sing Sing CF – 9/12/2019	26	4	0	26	20
Franklin CF – 9/20/2019	6	3	3	6	6
Bedford Hills CF – 9/30/2019	4	2	2	4	4
<b>Totals</b>	<b>84</b>	<b>19</b>	<b>10</b>	<b>80</b>	<b>61</b>

Inmates Interviewed by the Justice Center: Whenever possible, every inmate in the SHU is interviewed cell-side by Justice Center staff. Numbers of cell-side interviews reflect the census of inmates in the SHU at the time of the Justice Center’s visit for Great Meadow BHU, Bedford Hills CF, Ulster CF, and Sing Sing CF. However, the census for Franklin CF was higher than the number of cell-side interviews conducted by the Justice Center. At the time of the Justice Center’s visit to Franklin CF, the SHU census was 21.

Private Interviews Accepted: During cell-side interviews, inmates are offered an opportunity to meet with Justice Center staff. Those that agree are interviewed privately.

<sup>1</sup> NYS Correction Law Section 401 (a)

Inmates Referred to OMH For Immediate Action: Based on requests from inmates, or observations by Justice Center staff, names of inmates and of the immediate concern observed by Justice Center staff, are provided to the OMH Unit Chief for referral. Issues related to medication are referred for review by a psychiatrist. Others are referred to OMH for review by a clinician.

SHU Compliance Reviews: Number of inmate and/or patient records reviewed for compliance with timeframes contained in the SHU Exclusion Law.<sup>2</sup>

Quality Reviews Completed: Number of inmate and/or patient records reviewed for quality of mental health care provided. Specifically, Justice Center reviews whether care is in accordance with OMH Policies and Procedures and DOCCS Directives.

### **SHU Compliance Findings Summary of all five Correctional Facilities:**

All five facilities visited by the Justice Center were in compliance with the timeframes contained in the SHU Exclusion Law. Only one facility had inmate/patients who met the SHU Exclusion Law criteria for the definition of serious mental illness as well as inmate/patients on Exceptional Circumstances in SHU at the time of the Justice Center visit. In total, there were 33 inmate/patients who met the definition of serious mental illness and four inmate/patients on Exceptional Circumstances in one facility visited during the third quarter of 2019.

### **Quality of Mental Health Care (QMHC) Findings Summary of Issues Found at More than One Correctional Facility:**

There were no issues of concern related to the quality of mental health care provided in three of the five facilities visited.

### **SHU Compliance Findings at Individual Correctional Facilities:**

#### **Great Meadow CF BHU**

Visit Overview: Visited facility on August 22-23, 2019; 33 cell-side interviews conducted with nine private interviews accepted; five inmates were referred to a mental health clinician; and 33 records were reviewed for compliance with the timeframes required in the SHU Exclusion Law. There were 33 inmate/patients who met the SHU Exclusion Law criteria for the definition of serious mental illness and four inmate/patients on Exceptional Circumstances during the Justice Center's review period.

Compliance Findings: The Justice Center determined that the facility was in compliance with the required timeframes in the SHU Exclusion Law.

QMHC: There were 20 records reviewed for quality of mental health care with findings of concern identified below.

#### **QMHC Findings/Recommendations and OMH/DOCCS Response:**

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<sup>2</sup> NYS Correction Law, Section 137 (d) and (e)

During a two-month period (February and March 2019), 71% of the Informational Reports completed were positive reports. The use of positive informational reports provides helpful feedback to inmate/patients and the Justice Center has noted an increase in the use of positive informational reports at this facility.

The Justice Center determined that three inmate/patients did not have the opportunity to speak with psychiatric staff. It was documented in their clinical case record that security escorts were not available to facilitate an appointment with OMH staff. The Justice Center requested an explanation as to why escorts were unavailable as mental health call outs are considered mandatory. OMH deferred to DOCCS regarding this recommendation and DOCCS indicated that there are security escorts assigned to the BHU and there was no lack of security escorts on the dates in question. DOCCS indicated further that two inmate/patients had refused to attend multiple call outs and programming during the Justice Center's review period.

The Justice Center found that 16 inmate/patients had the same generic Treatment Plan goals. It was recommended that Treatment Plan goals be individualized and that OMH staff members be retrained in CNYPC CBO Policy 9.22 – Treatment Plan. In addition, the Unit Chief should complete quality assurance checks to ensure that all Treatment Plans begin at the time of admission and continue through the course of the inmate/patient's mental health treatment. OMH responded that the Justice Center's representation was inaccurate, noting that even though the Treatment Plans were similar, they were program based and, the specifics related to the inmate/patient symptoms were individualized and related to clinical assessments. OMH determined that a review of Policy #9.22 was not warranted because the BHU Unit Coordinator, Clinic Coordinator, and Regional Forensic Program Administrator (FPA) conduct regular trainings on this topic. Furthermore, OMH asserted that the Unit Coordinator oversees completion of all treatment plans; and therefore, quality assurance checks of this process are continuous.

A review of the clinical case records found that inmate/patients were not being seen by the psychiatrist or clinical staff in accordance with CNYPC CBO policies. To confirm that inmate/patients are seen in the appropriate time frame and documentation complete, the Justice Center requested that OMH retrain all psychiatric and clinical mental health staff in CNYPC CBO Policy #9.27 – Psychiatric Progress Notes and/or CNYPC CBO Policy #2.4 - Canceled/Refused/Missed. OMH indicated that both CNYPC CBO policies were reviewed with Great Meadow CF BHU and Marcy Residential Mental Health Unit (RMHU) clinical staff.

According to a progress note dated June 17, 2019, an inmate/patient was transferred to another facility on a suicide watch after reporting suicidal ideation due to not having his medical needs met, however there was no other supporting documentation regarding the transfer. Accurate documentation in the clinical case record is critical for an inmate/patient's continuity of care during transfers. In response to the Justice Center on another matter, the Justice Center learned that all Great Meadow OMH Staff were retrained in CNYPC CBO Policy #9.7 – Chronological Record following a SHU Compliance and Quality Mental Health Care Review on February 25-26, 2020. In addition, OMH also responded that the note referenced by the Justice Center was misdated in the file and should have been dated June 17, 2017.

There were three inmate/patients that were chronic refusers of programming. The Justice Center requested that whenever there is a prolonged disengagement with treatment, such as BHU mental health programming, every effort should be made to engage the inmate/patient in programming and if programming is still refused, the care of the inmate/patient should be reviewed by the Regional Psychiatrist or Clinical Director. Efforts to engage the

inmate/patient in programming as well as recommendations made by the Regional Psychiatrist or Clinical Director must be documented in the clinical case record. OMH noted in their response that the treatment team reviews inmate/patients who refuse programming at team meetings. In addition, the treatment team implements individualized incentive goals to encourage attending group programs and completing their therapeutic work, and supply them with in-cell therapeutic activities so that their refusals do not preclude them from receiving similar mental health benefits as those who attended program. According to OMH, the BHU treatment team seeks additional clinical guidance when needed and the OMH regional FPA met with the Unit Coordinator to discuss the need for staff to better document efforts made at engaging inmate/patients in group programming.

### **Ulster CF**

*Visit Overview:* Visited facility on August 23, 2019; 15 cell-side interviews were conducted with one private interview accepted; no inmates and/or patients were referred to a mental health clinician; and 11 records were reviewed for compliance with the timeframes required in the SHU Exclusion Law. There were no inmate/patients who met the SHU Exclusion Law criteria for the definition of serious mental illness and no inmate/patients on Exceptional Circumstances during the Justice Center's review period.

*Compliance Findings:* The Justice Center determined that the facility was in compliance with the required timeframes in the SHU Exclusion Law.

*QMHC Findings:* There were 11 records reviewed for quality of mental health care and there were no issues of concern related to the quality of mental health care provided.

### **Sing Sing CF**

*Visit Overview:* Visited facility on September 12, 2019; 26 cell-side interviews were conducted with four private interviews accepted; no inmates and/or patients were referred to a mental health clinician; and 26 records were reviewed for compliance with the timeframes required in the SHU Exclusion Law. There were no inmate/patients who met the SHU Exclusion Law criteria for the definition of serious mental illness and no inmate/patients on Exceptional Circumstances during the Justice Center's review period.

*Compliance Findings:* The Justice Center determined that the facility was in compliance with the required timeframes in the SHU Exclusion Law.

*QMHC Findings:* There were 20 records reviewed for quality of mental health care and there were no issues of concern related to the quality of mental health care provided.

### **Franklin CF**

*Visit Overview:* Visited facility on September 20, 2019; six cell-side interviews conducted with three private interviews accepted; three inmate and/or patients were referred to a mental health clinician; and six records were reviewed for compliance with the timeframes required in the SHU Exclusion Law. There were no inmate/patients who met the SHU Exclusion Law criteria for the definition of serious mental illness and no inmate/patients on Exceptional Circumstances during the Justice Center's review period.

Compliance Findings: The Justice Center determined that the facility was in compliance with the required timeframes in the SHU Exclusion Law.

QMHC Findings: There were six records reviewed for quality of mental health care and there were no issues of concern related to the quality of mental health care provided.

### **Bedford Hills CF**

Visit Overview: Visit conducted on September 30, 2019; four cell-side interviews conducted with two private interviews accepted; two inmate/patients were referred to a mental health clinician; four records were reviewed for compliance with the timeframes required in the SHU Exclusion Law. There were no inmate/patients who met the SHU Exclusion Law criteria for the definition of serious mental illness and no inmate/patients on Exceptional Circumstances during the Justice Center's review period.

Compliance Findings: The Justice Center determined that the facility was in compliance with the required timeframes in the SHU Exclusion Law.

QMHC Findings: Four records were reviewed for quality of mental health care provided with findings of concern identified below.

#### QMHC Findings/Recommendations and OMH/DOCCS Response:

The Justice Center found that two inmate/patients' Diagnosis Records were not completed in accordance with CNYPC CBO Policy #9.10 – Diagnosis Record. The Justice Center requested the Diagnosis Records and recommended that staff be retrained in CBP Policy #9.10 and that the Unit Chief review all incoming inmate/patient records to ensure that all documentation is completed and filed according to OMH policies and standards. OMH clarified their policy by stating that the Diagnosis Records for inmate/patients do not have to be filed in the inmate/patient's clinical case record if the diagnosis has not changed since the inmate/patient was admitted to the mental health caseload.

The Comprehensive Suicide Risk Assessment for one inmate/patient conflicted with information in the inmate/patient's Core History concerning the inmate/patient's history of suicide. It was recommended that the OMH unit chief complete quality assurance checks to ensure that all documentation is accurate and consider retraining staff in CNYPC CBO Policy #9.16 – Comprehensive Suicide Risk Assessment. OMH responded to the Justice Center by stating that the collateral information pertaining to the inmate/patient's history of suicide attempts in the Core History was from seven years prior and was not updated in 2019. OMH asserted that it was also possible that the inmate/patient denied this previous history. The Unit Chief reviewed the importance of addressing any inconsistencies such as this example in documentation with staff.